

## § 28.65

the District Commander if it is subsequently determined that the safety of the vessel and those onboard is adversely affected.

[CDG 96-046, 62 FR 46675, Sept. 4, 1997]

### **§ 28.65 Termination of unsafe operations.**

(a) A Coast Guard Boarding Officer may direct the master or individual in charge of a vessel, with the concurrence of the District Commander, or staff authorized by the District Commander, to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the Boarding Officer observes the vessel being operated in an unsafe manner and determines that an especially hazardous condition exists. This may include directing the master or individual in charge of the vessel to return the vessel to a mooring and remain there until the situation creating the especially hazardous condition is corrected or other specific action is taken.

(b) Hazardous conditions include, but are not limited to, operation with—

(1) An insufficient number of lifesaving equipment on board, to include serviceable Personal Flotation Devices (PFDs), serviceable immersion suits, or adequate survival craft capacity.

(2) An inoperable Emergency Position Indicating Radio Beacon (EPIRB) or radio communication equipment when required by regulation. There should be at least one operable means of communicating distress. When both are required, then at least one must be in operable condition to avoid termination of the voyage;

(3) Inadequate firefighting equipment on board;

(4) Excessive volatile fuel (gasoline or solvents) or volatile fuel vapors in bilges;

(5) Instability resulting from overloading, improper loading or lack of freeboard;

(6) Inoperable bilge system;

(7) Intoxication of the master or individual in charge of a commercial fishing vessel. An individual is intoxicated when he/she is operating a commercial fishing vessel and has an alcohol concentration of .04 percent, or the intoxicant's effect on the person's manner, disposition, speech, muscular move-

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ment, general appearance or behavior is apparent by observation;

(8) A lack of adequate operable navigation lights during periods of reduced visibility;

(9) Watertight closures missing or inoperable;

(10) Flooding or uncontrolled leakage in any space; or

(11) A missing or expired certificate of class, as required by 46 U.S.C. 4503(1), for a fish processing vessel.

(c) A Coast Guard Boarding Officer may direct the individual in charge of a fish processing vessel that is missing a Load Line Certificate, or that does not comply with the provisions of the Load Line Certificate issued by the American Bureau of Shipping or a similarly qualified organization, to return the vessel to a mooring and to remain there until the vessel obtains such a certificate.

[CGD 96-046, 61 FR 57273, Nov. 5, 1996, as amended at CGD 96-046, 62 FR 46676, Sept. 4, 1997]

### **§ 28.70 Approved equipment and material.**

(a) Equipment and material that is required by this subchapter to be approved or of an approved type, must have been manufactured and approved in accordance with the design and testing requirements in Subchapter Q of this chapter or as otherwise specified by the Commandant.

(b) Notice regarding equipment approvals is published in the FEDERAL REGISTER. Coast Guard publication COMDTINST M16714.3, "Equipment Lists, Items Approved, Certificated or Accepted under Marine Inspection and Navigation Laws," lists approved equipment by type and manufacturer. COMDTINST M16714.3 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Each OCMI may be contacted for information concerning approved equipment.

### **§ 28.73 Accepted organizations.**

An organization desiring to be designated by the Commandant as an accepted organization must request such designation in writing. As a minimum the organization must verify that it is an organization—

- (a) With a Code of Ethics;
- (b) Whose surveyors are familiar with the requirements of this chapter related to commercial fishing industry vessels;
- (c) Whose surveyors are familiar with the operations and equipment on board commercial fishing industry vessels;
- (d) Whose only interest in the fishing industry is in ensuring the safety of commercial fishing industry vessels and surveying commercial fishing industry vessels;
- (e) That has grievance procedures;
- (f) That has procedures for accepting and terminating membership of an individual, including minimum professional qualifications for surveyors;
- (g) That maintains a roster of present and past accepted members and surveyors; and
- (h) That has an Apprentice/Associate program for surveyors.

**§28.76 Similarly qualified organizations.**

An organization desiring to be designated by the Commandant as a similarly qualified organization must request such designation in writing. As a minimum the organization must verify that it—

- (a) Publishes standards for vessel design and construction which are as widely available as and which are of similar content to the standards published by the ABS;
- (b) Performs periodic surveys in a wide range of localities during and after construction to ensure compliance with published standards, including drydock examinations, in a manner similar to the ABS;
- (c) Issues certificates testifying to compliance with the published standards;
- (d) Has as its primary concern the survey and classification of vessels;
- (e) Has no interest in owning or operating fishing, fish processing, or fish tender vessels; and
- (f) Maintains records of surveys and makes such records available to the Coast Guard upon request in a manner similar to the ABS.

**§28.80 Report of casualty.**

- (a) Except for a casualty which is required to be reported to the Coast

Guard on Form CG 2692 in accordance with part 4 of this chapter, the owner, agent, operator, master, or individual in charge of a vessel involved in a casualty must submit a report in accordance with paragraph (c) of this section, as soon as possible after the casualty, to the underwriter of primary insurance for the vessel or to an organization listed in paragraph (d) of this section whenever the casualty involves any of the following.

- (1) Loss of life.
- (2) An injury that requires professional medical treatment (treatment beyond first aid) and that renders the individual unfit to perform his or her routine duties.
- (3) Loss of a vessel.
- (4) Damage to or by a vessel, its cargo, apparel or gear, except for fishing gear while not on board a vessel, or that impairs the seaworthiness of the vessel, or that is initially estimated at \$2,500.00 or more.
- (b) Each underwriter of primary insurance for a commercial fishing industry vessel must submit a report of each casualty involving that vessel to an organization listed in paragraph (d) of this section within 90 days of receiving notice of the casualty and whenever it pays a claim resulting from the casualty. Initial reports must be in accordance with paragraph (c) of this section. Subsequent reports must contain sufficient information to identify the casualty and any new or corrected casualty data.
- (c) Each report of casualty must include the following information:
  - (1) The name and address of the vessel owner and vessel operator, if different than the vessel owner;
  - (2) The name and address of the underwriter of primary insurance for the vessel;
  - (3) The name, registry number, call sign, gross tonnage, year of build, length, and hull material of the vessel;
  - (4) The date, location, primary cause, and nature of the casualty;
  - (5) The specific fishery, intended catch, and length of fishery opening when applicable;
  - (6) The date that the casualty was reported to the underwriter of primary